

AMENDED IN SENATE AUGUST 4, 2016

AMENDED IN SENATE MAY 23, 2016

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 29

Introduced by Assembly Member Campos
(Coauthors: Assembly Members Gonzalez, Kim, Melendez, Olsen,
and Waldron)

December 1, 2014

An act to add Section ~~1507.16 to the Health and Safety Code, relating to care facilities.~~ 2933.4 to the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 29, as amended, Campos. ~~Care facilities: missing minor residents. Prisoners: credits reducing period of confinement: rape of an unconscious person.~~

Existing law proscribes the crime of rape, including the rape of an unconscious person and the rape of the unconscious spouse of the perpetrator. The punishment for the crime of rape is generally imprisonment in the state prison for 3, 6, or 8 years, except as specified.

Existing law provides that it is the intent of the Legislature that persons sentenced to prison for a determinate sentence serve the entire sentence imposed by the court, except for a reduction in the time served in the custody of the Secretary of the Department of Corrections and Rehabilitation, as specified. Existing law generally authorizes a prisoner to earn one day of credit for each day in custody, up to a maximum of 6 months for every 6 months served, except as otherwise provided.

Under existing law, for each 4-day period in which a prisoner is confined in or committed to a county jail, industrial farm, or road camp, up to 2 days may be deducted from his or her period of confinement unless it appears by the record that the prisoner has refused to satisfactorily perform labor as assigned or the prisoner has not satisfactorily complied with the reasonable rules and regulations.

This bill would make a person who has been convicted of raping an unconscious person, or of raping his or her unconscious spouse, ineligible to receive a reduction in the time served or a deduction from his or her period of confinement pursuant to those provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law, the California Community Care Facilities Act, provides for the licensing and regulation of community care facilities by the State Department of Social Services. Existing law requires every community care facility that provides adult residential care or offers an adult day program to, for the purpose of addressing issues that arise when an adult resident or an adult day program participant is missing from the facility, develop and comply with an absentee notification plan for each resident or participant, and requires the plan to include a requirement that an administrator of the facility, or his or her designee, inform the resident's or participant's authorized representative when that resident or participant is missing from the facility and the circumstances in which an administrator of the facility, or his or her designee, shall notify local law enforcement when a resident or participant is missing from the facility. A violation of the provisions relating to community care facilities is a misdemeanor.~~

~~This bill would also require every community care facility that provides residential care for minors to, for the purpose of addressing issues that arise when a minor resident is missing from the facility, develop and comply with an absentee notification plan for each minor resident. The bill would require the plan to include a requirement that an administrator of the facility, or his or her designee, inform the minor's parent or guardian when that minor is missing from the facility and include provision for notification of local law enforcement. By expanding the scope of an existing crime, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~^{no}.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2933.4 is added to the Penal Code, to
2 read:

3 2933.4. (a) Notwithstanding Section 2933.1 or any other law,
4 any person who is convicted of the rape of an unconscious person,
5 as defined in paragraph (4) of subdivision (a) of Section 261, or
6 paragraph (3) of subdivision (a) of Section 262, shall not accrue
7 any credit, as specified in Section 2933.

8 (b) The limitation provided in subdivision (a) shall apply
9 whether the defendant is sentenced under Chapter 4.5 (commencing
10 with Section 1170) of Title 7 of Part 2 or sentenced under some
11 other law.

12 (c) Notwithstanding Section 4019 or any other law, a person
13 specified in subdivision (a) may not earn any credit pursuant to
14 Section 4019 against a period of confinement in, or commitment
15 to, a county jail, industrial farm, or road camp or a city jail,
16 industrial farm, or road camp, following his or her arrest.

17 SEC. 2. This act is an urgency statute necessary for the
18 immediate preservation of the public peace, health, or safety within
19 the meaning of Article IV of the Constitution and shall go into
20 immediate effect. The facts constituting the necessity are:

21 In order to ensure the safety of the community as soon as
22 possible, it is necessary that this act take effect immediately.

23 ~~SECTION 1. Section 1507.16 is added to the Health and Safety~~
24 ~~Code, to read:~~

25 ~~1507.16. (a) Every community care facility that provides~~
26 ~~residential care for minors shall, for the purpose of addressing~~
27 ~~issues that arise when a minor resident is missing from the facility,~~
28 ~~develop and comply with an absentee notification plan for each~~
29 ~~minor resident. The plan shall be part of the written needs and~~
30 ~~services plan if the minor has a plan. The plan shall include, but~~
31 ~~not be limited to, both of the following:~~

1 ~~(1) A requirement that an administrator of the facility, or his or~~
2 ~~her designee, inform the minor's parent or guardian when that~~
3 ~~minor is missing from the facility.~~

4 ~~(2) The circumstances under which an administrator of the~~
5 ~~facility, or his or her designee, shall notify local law enforcement~~
6 ~~when a minor is missing from the facility.~~

7 ~~(b) In preparing the absentee notification plan, the facility shall~~
8 ~~consider the status of the minor as a victim of human trafficking.~~
9 ~~In this situation, the plan may include a requirement to notify law~~
10 ~~enforcement immediately after the minor is missing.~~

11 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
12 ~~Section 6 of Article XIII B of the California Constitution because~~
13 ~~the only costs that may be incurred by a local agency or school~~
14 ~~district will be incurred because this act creates a new crime or~~
15 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
16 ~~for a crime or infraction, within the meaning of Section 17556 of~~
17 ~~the Government Code, or changes the definition of a crime within~~
18 ~~the meaning of Section 6 of Article XIII B of the California~~
19 ~~Constitution.~~